

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL Nos. 994, 995, 996, 999 to 1020 and 1022 to
1028 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

HEIRS OF DECD.MOHANJI MOTIJI THAKARDA

Appearance:

MS DS PANDIT, AGP for Petitioners
MR BG PATEL for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 12/12/2000

1. Appeals admitted. Mr. B.G. Patel waives service of notice in Appeal and appears for the respondents claimants. On a joint request of the learned counsel for the parties, we have heard the Appeals today for final hearing.

2. These are Appeals filed by the State of Gujarat under Section 54 of the Land Acquisition Act read with Section 96 of the Civil Procedure Code challenging the common judgment and awards passed by the Reference Court under Section 18 of the said Act.

3. The lands in question are situated in Village Ambavada, Taluka Idar and were acquired for Dharoi Dam Project. The relevant Notification under Section 4 of the Act was published on 23rd December, 1990. The Reference Court after appreciating the entire evidence on record determined the market value of the acquired lands at Rs.200/- per Are for non-irrigated lands and Rs.220/- per Are for irrigated lands.

4. The Reference Court has examined in detail the oral and documentary evidence produced on record by the claimants. However, for the purpose of determining the market value of the acquired lands, the Reference Court has mainly relied upon Exhs. 20, 21 and 22.

4.1 The other evidence led by the claimants has not rightly been accepted by the Reference Court in as much as the sale index produced by the claimants does not offer any basis for comparison, and is only evidence of the sale itself. The other evidence led by the claimants has also not been relied upon by the Reference Court as not being reliable.

5. As aforesaid, the Reference Court has chosen to rely upon Exhs. 20, 21 and 22.

5.1 Each of these three documents is a judgment in an earlier reference decided by the District Court under Section 18 of the Act.

5.2 Exh. 20 deals with the acquisition of lands from the very same village as in the instant case namely, Ambavada, and the notification under Section 4 of the Act is also of the same date as in the instant case namely, 23rd December, 1970. Under Exh. 20, the Reference Court has determined the market value at Rs.200/- per Are for

non-irrigated lands and Rs.220/- per Are for irrigated lands. This judgment and award under Section 18 was challenged by the State before the High Court by way of First Appeal No.5548 of 1995, which was dismissed by a Division Bench (Coram: N.J. Pandya and S.K. Keshote, JJ.) by their judgment and order dated 22nd September, 1995. Thus, the market value determined under Exh. 20 has been upheld by this court.

5.3 Similarly, Exhs. 21 and 22 also determined the identical market value by judgment in references under Section 18 of the Act and pertained to the villages Vaktapur and Bhanpur respectively. It is proved by evidence on record that the three villages namely, Ambavada, Vaktapur and Bhanpur are not merely adjoining to each other but also have common boundaries. Thus, the agricultural lands situated in these villages would have the same fertility, yield and income and therefore, there is no reason for differentiating the lands situated in such contiguous villages. Exhs. 21 and 22 also determine the market value at the same rate namely Rs.200/- per Are for non-irrigated lands and Rs.220/- per Are for irrigated lands.

6. No other contention is urged before us.

7. In the premises aforesaid, we find that the market value determined by the Reference Court in the common judgment and awards which are the subject matter of the present Appeals is eminently justified and calls for no interference in the present group of Appeals.

8. These Appeals are therefore dismissed with no orders as to costs.

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